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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,098	07/27/2000	Khai Hee Kwan		3200

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AUSTRALIA

EXAMINER
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HAVAN, THU THAO

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/628,098

**Applicant(s)**

KWAN, KHAI HEE

**Examiner**

Steven R. Wasylchak

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/21/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment received Dec. 26, 2004; claims 1-6, 8, 9, 13-19, 21-25 are pending; claims 7,10-12 and 21 are cancelled.
2. Applicant is advised that a large number of grammatical mistakes abound in the claims and amendments. Responses must be in proper grammatical form in order to properly respond to the merits of the claims and arguments. Prior rejections under 103 remain.
3. Applicant argues in substance numerous cases, all of which are factually distinguishable and thus the rulings do not apply. On page 4, Applicant states that his invention essentially is syndication. Examiner cites syndication in col 9, L 45-61; col 1, L13-47; col 2, L 20-33. A syndicator is part of a syndication. The balance of Applicant's arguments filed have been fully considered and found to be unpersuasive and for the reasons cited in the 35 U.S.C. 103 rejections of this office action.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 21-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Herschkorn (US 6,691,094).

Claims:

21. new: An apparatus for syndicating a loan , comprising:

a programmed computer, further comprising;

a memory having at least one region for storing executable program code; and

a processor for executing the program code stored in the memory, wherein the program code, further comprising:

a code to receive a loan syndication request for a loan syndicator, and

code to accept one or more potential lender's commitment to said syndication request./ col 1, L5-39; col 25-53

22. new: the apparatus according to claim 21, wherein program code further include codes for an auction routine./ col 4, L 14-40.

23. new: The apparatus according to claim 21 wherein program code further includes codes implementing feedback routine between syndication member and a loan syndicator./ col 2, L 20-53

24. new: The apparatus according to claim 21, wherein program code further includes codes implementing a co-operative amendment routine for a loan documents by syndication members upon authorization from final borrower and loan syndicator/ col 2, L 20-63

25 new: Computer executable software code stored on a computer readable median, the code negotiating and managing a loan syndication implementing the method of claim 1/ col 2, L 20-63

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herschkorn (US 6,691,094).

**CLAIMS:**

1. "amended" A method operative at a server for negotiating and managing loan syndication, over a network comprising the steps of  
having a database of the committed loan syndication and related loan documents maintained at the server;/ claim 8,9; col 1, L 11-23; col 2, L 20-32; col 17, L 6-17  
receiving a loan syndicating request from a loan syndicator where request is maintained at the server for a predetermined period of time;/ claim 1; fig 3  
(expiration month, date, hour, min.); col 17, L 20-42  
in response to a request from potential lenders to the server identifying a given loan syndication requirements, identifying a set of requests within that requirements;/ abstract; fig 2,3  
in response to the potential lenders accepting a given one of the set of syndication requests posted by the loan syndicator, electronic message to the

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loan syndicator and lenders confirming a loan syndication commitment in principle by said lenders and to the said lenders when the loan syndicator and final borrower have accepted the said lenders in principle commitment; and / fig 9; col 6, L 35-46

whereby said potential lenders can post questions and the loan syndicator can response to these questions visible to all over a network

2. "amended" The method as described in claim 1 wherein the identities of the final borrower and potential lenders at their discretion may be anonymous./ col 3, L54-65

3. "amended" The method as described in claim 2 further including the steps of notifying the identities of respective participants in the syndication wherein the final borrower and loan syndicator are provided with the first right access to potential lenders' identities on receiving said acceptance in principle by the lenders and said lenders are only provided with access to final borrower's identity through loan syndicator when their said acceptance in principle have also been accepted by final borrower./ col 6, L 5-16, 21-31

4. "amended" The method in claim 1 further including the steps:./ claim 1, fig 9 in response to the acceptance by he loan syndicator and final borrower, he potential lenders are provided an opportunity to ratify there commitments or to withdraw in response to ratifying their commitments, lenders to execute their individual loan obligation accordance to the terms of the loan by causing to transfer funds to the account of the loan syndicator over a network and

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in response to the said transferred funds, loan syndication authorizing the disbursement of the funds to the final borrower over a network./ claim 1, fig 9

5. "amended" The method in claim 1 further includes an auction routine for potential lenders to place loan commitment bids satisfying syndication request./claim 1, fig 9

6. "amended" The method in claim 1 wherein electronic loan documents may be cooperatively amended by lenders upon authorization by final borrower and loan syndicator./ fig 9; col 6, L 53 to col 7 , L 10

7. "amended" The method as described in claim 1 wherein the lender is charged a fee for the accepted bid./ col 2, L 53-63

8. The method as described in claim 1 wherein the request identifies at least a risk class of the final borrower borrowing terms, legal conditions, loan rate or cost and period of loan./ fig 9

9. "amended" The method as described in claim 1 wherein the request identifies a desired loan of the nature of a bond instrument, a floating or fixed rate note, a hybrid with detachable equity, a revolving credit instrument, a letter of credit instrument, negotiable certificate of deposit. or any instrument that has the nature of a loan instrument with interest payable or discounted as in treasury notes or equity or profit participation in lieu of interest payable./col 19, L 24-61

10. "amended" The method as described in claim 1 wherein the bid identifies a desired loan rate or cost and period of loan./fig 9

11. "amended" The method as described in claim 1 wherein the bid identifies the desired borrowing conditions attached to the bid./fig 9

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12. "amended" The method as described in claim 1 wherein the acceptance of the bid by lender identifies the desired size of the bid, the rate of return, the period of the loan and the divisible amount the lender is willing to participate including the role it is subscribing to./fig 9

13. "amended" A server connectable to a computer network preferably over the Internet for negotiating and managing loan syndication, comprising:

at least one client machine connected to the said server wherein said server comprising:

a database of executed or in progress loan syndication and related documents information;/fig 9

an information feedback system whereby potential lenders can post feedback/comments and the loan syndicator can response viewable by all over a network

a memory having a least one region for storing executable program code wherein the program code further comprising:

code to receive a loan syndication request and related documents for a loan syndicator, and

code to accept one or more potential lender's commitment to said syndication request./ fig 9

14. "amended" The server as described in claim 13 further includes auction routine means for a lender to post a commitment bid for a given loan syndication facility request ./ fig 9



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15. "amended" The server as described in claim 14 further includes means for enabling a loan syndicator or originator and final borrower to accept said bid including a divisible unit linking to a particular rate of the loan and the period for the stated loan syndication facility./ fig 9

16. "amended" The server as described in claim 13 further includes means for cooperatively amending of said documents by potential lenders upon authorization by final borrower and loan syndicator./refer to cl 3

17. "amended" The server as described in claim 15 further includes means for enabling a loan syndicator and final borrower to accept new bids in access of the total loan commitment where agreeable by other lenders and to substitute new lenders' bids where acceptance in principle lenders have withdrawn from the syndication facility./fig 9

18. "amended" The server as described in claim 13 wherein the further includes means for participants identities to be released where the final borrower and loan syndicator have the right to access identities of potential lenders in response to said lenders acceptance in principle to the bid, and where potential lenders have access to final borrower's identities when final borrower further accepts said lender's participation upon knowing said lender's identity, said lender will have the final means to either accept the final borrower's bid upon knowing said identity or withdraw./col 3, L 54-65

19. "amended" The server as described in claim 13 further includes:  
a programmable administrative routine to enable the loan syndication to manage the lenders commitments where such routine include sending instructional emails

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to lenders of their commitments such as draw down, to receive funds from lenders to be deposited into final borrowers' accounts and to receive a interest and principal payments from final borrowers in accordance to terms of facility where such payments will be credited to the respective lenders' accounts in relation to their portion of commitments; and

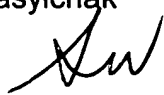
programmable administrative routine to monitor correspondence, update electronic documents, issue settlement instructions, accounting functions, auditing, perform billings, provide different degree of access to lenders in order for them top perform their duties, calculate and determine the interest costs principal repayment for each syndication on behalf of the syndicator./ refer to cl 3, abstract

This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



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3/4/05

